

**Remarks**

Applicants request reconsideration and allowance of the application. The latest office action requires a supplemental oath or declaration that will clearly show the signatures of the inventors. A supplemental declaration will be prepared and submitted within about thirty days. The office action objected to the drawings. To overcome that objection, the Applicants amended the Specification page 7 to delete the reference number "60" and to insert the correct number - - 50 - - . Claim 14 is amended to and it is no longer necessary to amend the drawings to accommodate claim 14.

All of the claims were rejected under 35 USC 103(a) based upon the combination of U. S. Patent No. 5,670,803 (Beilstein) with one or more references. Claims 14 and 15 were rejected under 35 USC 112 on grounds that they are indefinite because they include terms such as "substantially" and "approximately."

The rejection assumes that the Beilstein reference shows all of the features of the claim 9 except for a compound semiconductor. That assumption is clearly erroneous. Claim 9 includes a fourth compound semiconductor material in the opening and the fourth compound semiconductor material is electrically connected to the second compound semiconductor material. The reference fails to show or suggest this element of the claim. Moreover, if the reference had such a feature, the reference would be inoperative. As such, one skilled in the art would not modify the reference to make an inoperative device.


The reference shows a vertical random access memory device. The rejection relies upon Figure 10 of the reference. It identifies the opening 43 [sic, 53], a second layer 31 and a fourth layer 47. The second layer 31 is the channel of a vertical field effect transistor and the fourth layer 47 is the gate material for the transistor. The rejection states on page 6 that the fourth layer 47 is connected to the second layer 31. That is incorrect. There is no connection between the gate material 47 and the channel 31. Indeed, for proper operation the gate must be insulated from the channel. Figure 10 shows an insulation layer 43 (see Figure 7 earlier in the process) that separates the gate conductive material 47 from the channel. If, as erroneously stated in the reference, the gate material 47 was electrically connected to the channel 31, the device of the reference would be inoperative.

The terms “substantially” and “approximately” do not render the claims indefinite. Such terms are ubiquitous in claims of patents. For example, a key word search for those terms in the claims of patents issued in the year 2002 shows that 37,216 patents used the term “substantially” in their claims and that 9,760 patents used the term “approximately.” Copies of the first page of computer print outs of the above key word searches are attached. See also MPEP Section 2173.05(D) that sanctions the use of “substantial.”

Applicants believe that all of the objections and rejections have been explained and overcome by this response and by the promised declaration. Having

thus demonstrated that the invention is patentable, a notice of allowance is respectfully requested.

Respectfully submitted,

  
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